

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

FIFTH THIRD BANK)
)
v.) NO. 3-10-0363
) JUDGE CAMPBELL
JOSEPH B. CRACE, et al.)

ORDER

Pending before the Court is Plaintiff's Motion for Summary Judgment (Docket No. 12), to which no Response has been timely filed. Failure to file a timely response indicates that there is no opposition to the Motion. Local Rule 7.01(b). For the reasons stated herein, Plaintiff's Motion is GRANTED.

This action arises from two certain notes executed by Defendant Crace & Parker to Plaintiff. Docket No. 14, ¶1.¹ The notes were guaranteed by Defendant Crace. *Id.*, ¶4. Defendants have failed to repay the notes. *Id.*, ¶9.² Plaintiff seeks summary judgment on its claims against both Defendants.

The Court has reviewed the Plaintiff's Motion for Summary Judgment and supporting documents, pursuant to Stough v. Mayville Community Schools, 138 F.3d 612, 614 (6th Cir. 1998), and finds that Plaintiff has carried its burden to show that there are no disputed issues of fact and that Plaintiff is entitled to judgment as a matter of law.


¹ Because Defendants have failed to respond to Plaintiff's Statement of Material Facts (Docket No. 14), those facts are accepted as undisputed. Local Rule 56.01(g).

² The total indebtedness as of August 16, 2010, was \$504,719.62, with interest accruing at the aggregate rate of \$93.48094 per day. Docket No. 14, ¶¶ 11 and 12.

Accordingly, Plaintiff's Motion for Summary Judgment (Docket No. 14) is GRANTED, and Plaintiff shall have judgment against Defendants, jointly and severally, for \$504,719.62, plus interest accruing at the aggregate rate of \$93.48094 per day from August 16, 2010, until the date of this judgment.

Plaintiff's request for attorneys' fees is denied without prejudice to being re-filed in accordance with Local Rule 54.01(b).

IT IS SO ORDERED.


TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE